

Applicant : Cihla
Patent No. : n/a
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Page : 12

Attorney's Docket No.: 00121-003000000

REMARKS

Claims:

Claims 1-3, 6 and 8-20 were rejected under 35 U.S.C § 102(e) as being anticipated by Barri (U.S. Patent 6,657,962); Claims 4 and 5 were rejected under 35 USC 103(a) over Barry and further in view of Cometto (U.S. Patent Application 2003/0115355); Claim 7 was rejected over Barri and further in view of Zhao et al. (U.S. Patent Application 2003/0123455).

Applicant respectfully submit that the Examiner has failed to establish the *prima facie* case as each element of independent Claims 1 and 3 as amended are not taught in their entirety by Barri alone. See *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2D (BNA) 1913, 1920 (Fed. Cir.), cert. denied, 493 U.S. 853, 107 L. Ed. 2d 112, 110 S. Ct. 154 (1989) (explaining that an invention is anticipated if every element of the claimed invention, including all claim limitations, is shown in a single prior art reference). See *Jamesbury Corp. v. Litton Industrial Products, Inc.*, 756 F.2d 1556, 1560, 225 USPQ 253, 256 (Fed. Cir. 1985) (explaining that the identical invention must be shown in as complete detail as is contained in the patent claim). See *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 U.S.P.Q.2D (BNA) 1051, 1053 (Fed. Cir. 1987) (explaining that a prior art reference anticipates a claim only if the reference discloses, either expressly or inherently, every limitation of the claim). See *Kloster Speedsteel AB v.*

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Page : 13

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Crucible, Inc., 793 F.2d 1565, 1571, 230 U.S.P.Q. (BNA) 81, 84 (Fed. Cir. 1986) ("Absence from the reference of any claimed element negates anticipation.")

None of the cited references teach or suggest "controlling a third data flow through said third component in response to said second signal by communicating through an out-of-band signal to an opposite second component carrying data flow contributing to said third congestion wherein the out-of-band signal instructs the opposite second component to control the corresponding data flow associated with said opposite second component" as recited in Claim 1 or "a plurality of storage processors coupled together and coupled to said plurality of traffic manager processors, said plurality of storage processors being configured to direct said plurality of data frames according to an associated ingress port and an associated egress port of said plurality of ports, said plurality of storage processors being further configured to detect third congestion and to control a third data flow of said plurality of data frames when said third congestion is detected by communicating through an out-of-band signal to an opposite traffic manager processor carrying data flow contributing to said third congestion wherein the out-of-band signal instructs the opposite traffic manager to control the corresponding data flow associated with said opposite traffic manager" as recited in Claim 3.

Indeed, Barri does not have an additional layer of processors capable of sending an out-of-band signal to a lower layer to alleviate a detected congestion in advance. For example, aspects of

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Filed : 10/21/2003
Page : 14

Attorney's Docket No.: 00121-003000000

the present invention can have a storage processor send an out-of-band signal to the opposite traffic manager processor. In the case of egress congestion, the out-of-band signal instructs the opposite traffic manager processor to control the ingress data flow. Accordingly, the storage processor handling the egress data may in some cases work to control the data flow prior to the storage processor handling the ingress data detecting a conflict. The phrase "opposite" in this context refers to a traffic manager processor or other component associated with a storage processor other than the storage processor at issue. (Paragraph 0061 of the specification as filed).

In summary, the cited references fail to teach or suggest all the elements of Claim 1 and Claim 3. Claims 4-20 are not only allowable independently but by virtue of their dependence on Claim 3.

Applicant : Cihla
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Page : 15

Attorney's Docket No.: 00121-003000000

Applicant has made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Leland Wiesner, Applicants' Attorney at (650) 853-1113 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

____ 8/03/2009 _____
Date



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